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Task Force
On
Grants-in-lieu of Taxes
Policy Statement

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FEDERATION OF CANADIAN MUNICIPALITIES
POLICY STATEMENT
ON
GRANTS-IN-LIEU OF TAXES

THE ISSUES

Property tax is the major source of revenue for municipalities. This tax base is important to municipalities, not only for the provision of municipal services and amenities and the capacity to borrow for various undertakings, but also for fiscal autonomy. Control over the property tax and the authority to set tax rates from year to year, gives municipal councils discretion in the setting of expenditure priorities and the establishment of long-term financial commitments. This has become more important as municipalities have come increasingly to depend on grants from other levels of government, particularly conditional grants.

In recent years, municipalities have expressed concern about their ability to control their own affairs while having to depend on financial assistance from other governments. This concern has been exacerbated by the tendency of some provincial governments to use property tax as a source of revenue for purposes which are outside municipal jurisdiction and responability. In some provinces, this has led to a serious erosion of the property tax base as a source of revenue for municipal activities. Provincial governments have appropriated property tax for purposes which may be regarded as more properly funded from other sources of revenue. Municipal disapproval of this situation is particularly evident in those provinces where property taxes are used either directly or indirectly for such things as social services and education.

Added pressure on the property tax base, combined with increasing dependency on conditional grants, has led to a serious loss of municipal autonomy and a steady erosion of the capability of municipalities to plan their financial affairs and to meet the needs and expectations of their citizens. In addition, it has weakened their ability to work with other orders of government in the implementation of policies and programs locally.

In this context, all sources of property tax revenue are particularly important to municipalities, including such tax revenue from other orders of government. Traditionally, the federal government has paid property taxes to municipalities in the form of grants-in-lieu of taxes. The federal government has chosen this mode of payment in order to maintain its constitutional prerogatives and special status in relation to provincial and municipal governments. The federal government has no wish to make itself subject to provincial and/or municipal taxation policies. By paying grants-in-lieu of taxes the federal government is able to meet its financial obligations to municipalities with respect to municipal services which benefit its various operations, while maintaining its constitutional autonomy and discretion. The latter enables the federal government to define what its financial obligations to municipalities are in relation to various types of federal operations and their purposes and, at the same time, to do its own property assessments and establish its own tax rates. In this sense, while the federal government pays grants-in-lieu of taxes, it is unlike private property tax payers.

Generally, municipalities have regarded grants-in-lieu of taxes as an acceptable alternative to the payment of property taxes. Over the years, through legislative changes, the federal government has moved closer to

accepting its full financial obligatons to municipalities. Nevertheless, many municipalities which have a federal presence continue to encounter serious problems in persuading the federal government to use its discretionary authority in a fair and reasonable manner. From the municipal perspective, the guiding principle is that a municipality should not be fiscally disadvantaged by the presence of federal property (i.e., suffer a net negative fiscal impact). Many municipalities find that this principle is ignored by the federal government in the determination of grants-in-lieu of taxes. In addition, the federal government often refuses to accept those financial obligations which apply to private property owners. This leads to a variety of anomalies and inequities.

In light of the above, the Federation of Canadian Municipalities welcomes and supports the decision of the Minister of Public Works Canada to accept the principle of the introduction of an appeals process in regard to municipal grants-in-lieu of taxes, and to establish a Municipal Grants Review Committee. The latter has been called upon "to give the Minister an independent objective opinion on irreconcilable differences of opinion on grants".

The following are among the specific complaints which municipalities have with respect to federal policies and practices:

1. Many types of federal properties are exempted from grants-in-lieu of taxes although often benefitting from municipal services. There is concern that the Federal government continues to exclude from the determination of payments in lieu of tax properties which, if privately owned, would be subject to municipal taxation. Not only are grants-in-lieu of business taxes not paid on departmental properties,

but they are also not required from many federal agencies engaged in business-like operations. This necessarily creates anomalies between the taxation of federal and privately-owned properties.

With respect to this matter, it should be noted that the report of the federal government's Study Group (The Need For and The Feasibility of An Appeals Process in Regard to Municipal Grants-in-lieu of Taxes) observes that "The Federal Government maintains that government is not a business and that making such grants-in-lieu of taxes would result in a considerable financial burden."

2. Federal exemptions impose an additional burden on taxpayers. This is regarded as unfair, particularly for those municipalities where the portion of exempt properties is unusually high. It is argued that since federal properties are provided for the general benefit of all Canadians, their full costs, including those placed upon municipalities, should be met by Canadian taxpayers.

3. Federal exemptions of certain federal properties have resulted in major discrepancies between federal and provincial assessment and taxation policies. Certain types of property which are made exempt from federal taxation are assessed and taxed in most provinces. It is felt that federal and provincial properties should be treated in parallel fashion. This would help to ensure that municipalities are not fiscally disadvantaged by the federal presence.

On this matter it should be noted that the federal Study Group points out that provincial legislation is widely variant across the country, and that "some provinces do not even pay grants-in-lieu of taxes on provincial property". Also "...municipal grants are

paid on certain properties that the provinces do not pay on, for example, churches and schools".

4. Exemptions of certain classes of property which are uniquely federal create further fiscal disadvantages for certain municipalities. These exemptions are to be found in Schedule II of the Municipal Grants Act.
5. Exemptions of certain Crown Corporations create anomalies as between those operations which are expected to earn a reasonable rate of return on investment and those which are expected to provide a service. The distinction is regarded as an irrelevant criterion because municipal services are required by federal properties regardless of their profit orientation. To the extent that the equivalent of business taxes is not paid, municipal governments and their local taxpayers are subsidizing federal activities benefitting all Canadians in this respect, the report of the federal Study Group observes that "...certain federal crown corporations that are viewed as being 'business operations' do pay grants-in-lieu of business taxes".
6. Exemptions of certain Crown Corporations are based on the argument that the cost of services to these corporations does not warrant the payment of such taxes. The effect is to deduct from grants-in-lieu amounts for unused and/or self-provided services. It is argued that the existing pattern of local taxation, including business taxes, is a widely accepted method of distributing the municipal tax burden and there is no reason that the federal government should interfere with or reject that. Benefits received are not the only accceptable basis for allocating tax burdens.
7. Exemptions from the payment of grants-in-lieu of business taxes produce interprovincial inequities. In provinces where the business tax is tied to the property tax base the federal government is, in

effect, currently paying grants-in-lieu of business tax, but, where the tax is associated with one of its many other bases, such is not the case. It is argued that the federal government should recognize business taxes as a valid municipal revenue source, and the lack of a direct link between it and the property tax base as an artificial distinction.

8. Ministerial discretion is used to devalue property values from the assessed values established by assessment authorities. In effect, property values can be devalued at the will of the Minister. The result is a disparity between the assessed values of many federal properties and the values which the federal government accepts for grants-in-lieu of tax determination.

9. Differences of opinion as to the appropriate value to be placed on federal properties is made the subject of discussion and negotiation between federal and municipal authorities. Nevertheless, it is observed that because the Minister is the sole arbitrator, both judge and litigant, municipalities often feel that they have not had a fair hearing. As well, it is observed that seemingly arbitrary decisions result in dissatisfaction over apparently inappropriate and unfair treatment among municipalities. It is for this reason that the Federation of Canadian Municipalities welcomes and supports the decision of the Minister of Public Works Canada to accept the principle of the introduction of an appeals process in regard to municipal grants-in-lieu of taxes.

10. There is concern that federal authorities are less than prompt in paying grants-in-lieu to municipalities. It is argued that they should feel no less obliged than other taxpayers to meet their financial obligations as quickly as possible.

The report of the federal Study Group observes that "Timeliness of grant payments is a major issue", and "...that the payment of grants after a taxation year imposes a considerable financial burden on grant recipients".

11. There is also concern that federal authorities often fail to admit to their financial obligations under federal legislation. It is argued that it should not be the responsibility of municipalities to act as a 'watch dog' over federal agencies, and/or become engaged in lengthy negotiations with them about their financial obligations.

RECOMMENDATIONS

In light of the above, it is the recommendation of the FCM Task Force on Grants-in-Lieu of Taxes that the FCM:

1. urge the federal government to commit itself and its agencies to grants-in-lieu equivalent to full property taxes and assume the position of a normal property taxpayer bound by the relevant practices in each province;
2. urge the federal government to accept the legitimacy of business occupancy taxes as a means of financing and distributing the cost of municipal services, particularly since it is effectively already paying them in provinces where they are linked directly to the property tax. This will help to eliminate inter-provincial inequities among municipalities based on variations in the tax base;
3. urge the federal government to review remaining exemptions of certain classes of property which are uniquely federal listed in Schedule II of the Municipal Grants Act. This should have the effect of eliminating the disadvantages experienced by municipalities in which certain exempt properties are located;

4. monitor and analyze the impact of exemptions of certain classes of federal property listed in Schedule II of the Municipal Grants Act;
5. urge the federal government to eliminate those exemptions which are based on unused and/or self-provided services. This would recognize the principle that each taxpayer should be prepared to pay a fair share of the cost of community services even if not directly or immediately benefitting from them. In this respect, it is acknowledged that special treatment may be required to maintain a reasonable relationship between grants-in-lieu of taxes and local expenditures on behalf or account of federal properties. This special treatment could be accomplished either by adopting the tax practices of the province in which the property is located, or by establishing a nation-wide procedure representative of the provincial approaches;
6. urge the federal government to include a municipal representative from the Federation of Canadian Municipalities on the Municipal Grants Review Committee.
7. urge the federal government to clarify and further publicize the role and responsibilities of the Municipal Grants Review Committee, and ensure that the Federation of Canadian Municipalities is advised on a regular basis of the submissions made to the Committee, and the opinions of the Committee on such submissions for communication to municipalities;
8. urge the federal government to establish an independent appeal process as quickly as possible following the two year mandate of the Municipal Grants Review Committee;
9. urge the federal government to ensure that its agencies make prompt payments of grants-in-lieu of taxes to municipalities. In this regard, urge the federal government to act on the suggestion contained

in the federal Study Group's report that a committee composed of Municipal Grants Division personnel and grant recipients be established to examine methods of grant delivery possibly with the view to improve the timeliness of grant payments;

10. urge the federal government to ensure that its agencies accept their financial obligations in respect of grants-in-lieu of taxes under current federal policies;
11. urge the federal government to identify which crown corporations are currently paying grants-in-lieu of business taxes, and to resolve current controversy surrounding the allocation of corporations to Schedules III and IV of the Municipal Grants Act, 1980 with respect to the payment of grants-in-lieu of property and business occupancy taxes;
12. urge the federal government to act on the suggestion in the federal Study Group's report that a committee be established, composed of federal valuators and provincial assessors, to examine the manner in which federal properties are currently assessed;
13. urge the federal government to act on the federal Study Group's opinion "...that the Municipal Grants Division should develop a formal program of information dissemination designed to foster a better understanding of the Municipal Grants Act and the program in general";
14. monitor municipal complaints and problems with respect to federal grants-in-lieu of taxes and draw these to the federal government's attention. This would include any inconsistences and/or discrepancies with respect to the allocation of grants to municipalities among provinces.
15. monitor and analyze the submissions to and opinions of the Municipal Grants Review Committee;

16. assist municipalities, when requested, in dealing with federal authorities in the resolution of problems and complaints concerning the payment of grants-in-lieu of taxes;

17. work with municipal associations on interprovincial issues and concerns involving provincial grants-in-lieu of taxes to municipalities. In this respect it is recognized that associations may wish to urge their respective provincial governments to:

    a) follow the example of the federal government by adopting the principle of an independent appeal process, and to establish an interim mechanism to provide an independent objective opinion on differences of opinion on grants;

    b) pay grants-in-lieu of taxes on provincial property in municipalities in those instances where they are not currently doing so, particularly with respect to those types of property on which grants would be paid if they were owned by the federal government;

18. work with municipal associatons in urging the federal and provincial governments to develop a national policy and program with respect to the payment of grants-in-lieu of taxes by both levels of government;

19. work with municipal associations in informing municipalities of recent federal initiatives and changes to federal policy with respect to the payment of grants-in-lieu of taxes to municipalities. At the same time, to inform municipalities of the various actions and policies of provincial governments so that they may evaluate the decisions of their own provincial governments with respect to the payment of grants-in-lieu of taxes.